

1 BILL NO. S-88-12-14

2 SPECIAL ORDINANCE NO. S- 191-88

3 AN ORDINANCE approving the awarding of
4 Reference #1352 by the City of Fort
5 Wayne, Indiana, by and through its
6 Department of Purchasing and Elf Asphalt
7 for the Street Department.

8 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
9 THE CITY OF FORT WAYNE, INDIANA;

10 SECTION 1. That Reference #1352 between the City of
11 Fort Wayne, by and through its Department of Purchasing and
12 Elf Asphalt for the Street Department, respectfully for:

13 the purchase of bituminous materials for
14 1989 for the Street Department;

15 involving a total cost of Two Hundred Thousand and no/100
16 Dollars (\$200,000.00), all as more particularly set forth in
17 said Reference #1352 which is on file in the Office of the
18 Department of Purchasing, and is by reference incorporated
19 herein, made a part hereof, and is hereby in all things
20 ratified, confirmed and approved.

21 SECTION 2. That this Ordinance shall be in full force
22 and effect from and after its passage and any and all
23 necessary approval by the Mayor.

24 APPROVED AS TO FORM
25 AND LEGALITY

26 Samuel J. Talarico
27 Councilmember

28 J. Timothy McCaulay
29 J. Timothy McCaulay, City Attorney

30

31

32

REFERENCE NO. 1352
STREET DEPARTMENT
BITUMINOUS MATERIALS

DESCRIPTION	QTY	+/-	ELF ASPHALT
AE 300	18560	GAL	\$0.65 \$12,064.00
AC 20	1340	TON	\$135.00 \$180,900.00
AE-T TACK	66	TON	\$144.00 \$9,504.00
AE-90S	310	TON	\$185.00 \$57,350.00
AE-150 EMULSION	5	TON	\$156.00 \$780.00
DUSTAY	10	TON	\$96.00 \$960.00
AE-300S	310	TON	\$185.00 \$57,350.00
AC-13	100	TON	\$185.00 \$18,500.00

INVITATION TO BID
DEPARTMENT OF PURCHASING
CITY OF FORT WAYNE, ALLEN COUNTY, INDIANA
ONE MAIN STREET-ROOM 350
PHONE 219-427-1101

BID OPENING DATE : 11-22-88 @ 11:00 AM BID REFERENCE # 1352

BIDS SHOULD BE DELIVERED TO DEPARTMENT OF PURCHASING, ROOM 350,
CITY-COUNTY BUILDING UP TO 11:00 AM, ON OR BEFORE
OPENING DATE.

SEALED BIDS WILL BE OPENED PUBLICLY AT 11:01 AM IN THE
BOARD OF WORKS AND SAFETY CONFERENCE ROOM ON THE THIRD FLOOR OF
THE CITY-COUNTY BUILDING. "NO LATE BIDS WILL BE ACCEPTED AFTER
11:00 AM FOR ANY REASON WHATSOEVER."

THIS INVITATION FOR BID IS FOR Asphalt/Bituminous Materials

AND REQUESTED BY City of Fort Wayne Street Dept

PLEASE RETURN THIS FORM AND/OR ANY OF THE OTHER FORMS AS REQUESTED
AND HI-LIGHTED ON THE SHEET OF CONTENTS WITH YOUR SEALED BID.

THIS BID REQUIRES A X 5% BID BOND OF ALL BIDDERS.
THIS BID REQUIRES A 100% PERFORMANCE BOND OF SUCESSFUL
BIDDER(S).

PROMPT PAYMENT DISCOUNTS WILL BE ALLOWED AS FOLLOWS: %
IF PAID WITHIN DAYS.

THE CITY OF FORT WAYNE IS EXEMPT FROM FEDERAL EXCISE AND INDIANA
STATE SALES TAX. THE CITY'S INDIANA SALES TAX EXEMPTION CERTIFICATE
NUMBER IS 356-001-255 0013, PRICES SHOULD NOT INCLUDE THESE
TAXES.

THE EXECUTION HEREOF BY THE BIDDER IS ACCEPTANCE OF ALL TERMS
AND CONDITIONS HEREIN AND IN THAT REGARD THE BIDDER AGREES TO BE
BOUND BY SAME AND BE BOUND TO THE AMOUNT OF HIS/HER BID FOR A
PERIOD OF NINETY (90) DAYS.

FIRM NAME elf asphalt
STREET ADDRESS 2720 East Durbin/P.O. Box 1295
CITY Warsaw, Indiana 46580
BY Thilo Thimann PHONE 219-267-5076
REPRESENTATIVE SIGNATURE

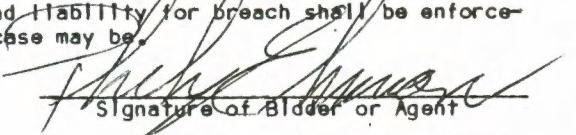
BID, OFFER OR PROPOSAL FOR SALE OR LEASE OF MATERIALS

(Defined at I.C. 36-1-2-9.5)
(Please type or print)

1. Governmental Unit: City of Ft. Wayne
 2. County: Allen County, Indiana
 3. Bidder (Firm): elf asphalt
 Address: P.O. Box 1295/2720 East Durbin Road
 CITY/STATE: Warsaw, Indiana 46580
 4. Telephone Number: (219) 267-5076
 5. Agent of Bidder (If applicable): _____

Pursuant to notices given, the undersigned offers bid(s) to City of Ft. Wayne (Governmental Unit) in accordance with the following attachment(s) which specify the class or item number or description, quantity, unit, unit price and total amount.

The contract will be awarded by classes or items, in accordance with specifications. Any changes or alterations in the items specified will render such bid void as to that class or item. Bidder promises that he has not offered nor received a less price than the price stated in his bid for the materials included in said bid. Bidder further agrees that he will not withdraw his bid from the office in which it is filed. A certified check or bond shall be filed with each bid if required, and liability for breach shall be enforceable upon the contract, the bond or certified check or both as the case may be.


Signature of Bidder or Agent

Philip Ehrman, Vice President

BID OFFER OR PROPOSAL

Attach separate sheet listing each item bid based on specifications published by governing body.
Following is an example of the bid format:

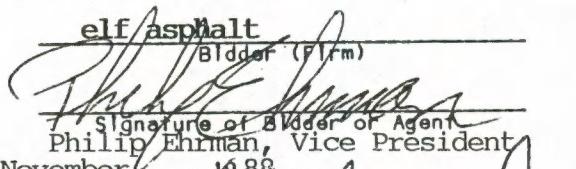
Class or Item	Quantity	Unit	Description	Unit Price	Amount

NON-COLLUSION AFFIDAVIT

STATE OF INDIANA)
) SS:
• Joseph COUNTY)

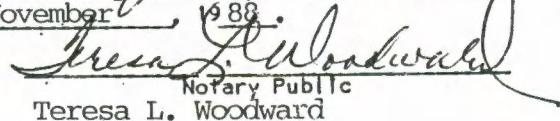
The undersigned bidder or agent, being duly sworn on oath, says that he has not, nor has any other member, representative, or agent of the firm, company, corporation or partnership represented by him, entered into any combination, collusion or agreement with any person relative to the price to be bid by anyone at such letting nor to prevent any person from bidding nor to induce anyone to refrain from bidding, and that this bid is made without reference to any other bid and without any agreement, understanding or combination with any other person in reference to such bidding.

He further says that no person or persons, firms, or corporation has, have or will receive directly or indirectly, any rebate, fee, gift, commission or thing of value on account of such sale.


Signature of Bidder or Agent
Philip Ehrman, Vice President

Subscribed and sworn to before me this 22nd day ofMy Commission Expires: 6/27/91County of Residence: St. Joseph

November, 1988.


Notary Public
Teresa L. Woodward

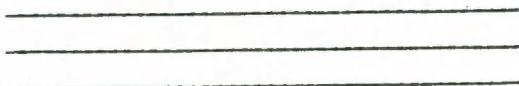
Notary Public Printed Name

ACCEPTANCE

There now being sufficient unbilled appropriated funds available, the contracting authority of (Governmental Unit) hereby accepts the terms of the attached bid for classes or items numbered _____ and promises to pay the undersigned bidder upon delivery the price quoted for the materials stipulated in said bid.

Date: _____

Contracting Authority Members:

CITY OF FORT WAYNE
ANNUAL EMULSION REQUIREMENTS

The City of Fort Wayne, Indiana, is requesting bids for the purchase of Asphalt/Bituminous Material for the Street Departments requirements necessary for a number of resurfacing projects.

The estimated annual requirement of 1500-2000 ton, for a number of different grades is merely an estimate. Quantities may vary up or down as the need requires.

All material bid must meet specifications outlined in the 1985, Indiana Department of Highways, Standard Specifications, 902.04, (a) Requirements for Asphalt Emulsions.

Price quoted shall be for delivered product to the City of Fort Wayne facilities. The price will remain firm for the term of the contract which will be from date of acceptance to December 31, 1989.

By mutual agreement between the City of Fort Wayne and the supplier, the contract period may be extended for an additional period not to exceed one (1) year. However, the agreement to extend must be completed in writing not less than fifteen (15) days prior to expiration date. The contract may be extended only at the same price and under the same conditions governing the original contract.

STATE COST PER UNIT DELIVERED

<u>EST QTY.</u>	<u>UNIT</u>	<u>DESCRIPTION</u>	<u>COST PER UNIT</u>
18,560+/-	GAL	AE 300	\$.65
1,340+/-	TON	AC 20	\$ 135.00
66+/-	TON	AE-T (TACK)	\$ 144.00
310+/-	TON	AE-90S	\$ 185.00
5+/-	TON	AE-150 EMULSION	\$ 156.00
10+/-	TON	DUSTAY	\$ 96.00
310+/-	TON	AE-300S	\$ 185.00
100+/-	TON	AC-13	\$ 185.00

CERTIFICATION OF BIDDER/VENDOR

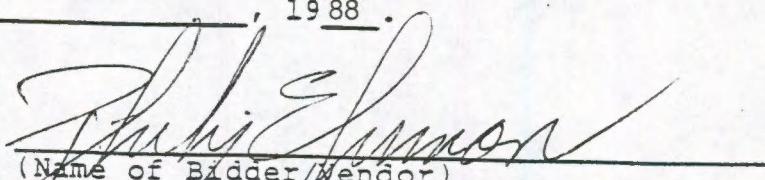
The undersigned, on behalf of elf asphalt
_____, does hereby make the following representations
to the City of Fort Wayne, Indiana.

WHEREAS, it is acknowledged that the Common Council
of the City of Fort Wayne, Indiana, has passed an ordinance con-
demning the apartheid policies of the country of South Africa;

WHEREAS, Council's ordinance requires that all persons,
firms or corporations submitting bids to the City, for goods and
services, certify, as part of the bid, that such entity does not
support the policies of apartheid in South Africa.

The undersigned states, on behalf of elf asphalt
_____, that elf asphalt
does not support or endorse the policy of apartheid in South Africa.

IN WITNESS WHEREOF, this Certification has been signed
this 16th day of November, 1988.


(Name of Bidder/Vendor)
Philip Ehrman, Vice President elf asphalt

(Name and Title of Person Signing)

CITY OF FORT WAYNE
AFFIRMATIVE ACTION PROGRAM

Name of Company elf asphalt
Address 2720 E. Durbin Rd. P.O. Box 1295 City Warsaw, Indiana
Zip 46580 Phone (219) 267-5076

Identify by title and name the highest official within the facility who has the overall responsibility for the implementation of the Equal Employment Opportunity and Affirmative Action Program.

Philip Ehrman

Vice President

PLEASE PRINT

11/16/88

Signature

T.D. 10

- I. Does your firm have a written Affirmative Action Program? Yes No

A. If so, and it contains answers to the questions asked in this program, attach a copy and sign the Written Statement of Company Policy.

B. If not, do you accept the following program in meeting the requirements of the City of Fort Wayne? Yes No

PLEASE KEEP IN MIND THAT FAILURE TO COMPLETE ALL SECTIONS OF THIS DOCUMENT WILL RESULT IN YOUR PROGRAM BEING REJECTED.

2. Will your firm make every effort to increase employment of minorities at all levels of its workforce with particular emphasis to categories where few, if any, minority people are employed? _____ Yes _____ No

3. Current number of employees _____
Number of employees as of October 1987 _____ January 1988 _____ April 1988 _____
and July 1988 _____

4. Workforce Analysis:

Handicapped: Yes No

List Number _____

B - Black (not of Hispanic Origin) H - Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin) AI, AN - American Indian or Alaskan

CERTIFICATION OF NON-SEGREGATED FACILITIES

Each Bidder is required to file a fully executed Certificate of Non-Segregated Facilities once a year.

CERTIFICATION OF NON-SEGREGATED FACILITIES

The Bidder certifies that he does not maintain or provide for his employees any segregated facilities at any of his establishments, and that he does not permit his employees to perform their services at any location, under his control, where segregated facilities are maintained. The Bidder certifies further that he will not maintain or provide for his employees any segregated facilities at any of his establishments and that he will not permit his employees to perform their services at any location under his control where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity clause in any contract resulting from acceptance of this bid. As used in this certification, the term "segregated facilities" means any waiting room, work area, restrooms and washrooms, restaurant or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, or national origin, because of habit, local custom, or otherwise. The Bidder agrees that (except where the Bidder has obtained identical certification from proposed subcontractors for specific time periods) he will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the Equal Opportunity clause and that he will retain such certifications in his files.

NOTE: THE PENALTY FOR MAKING FALSE STATEMENTS IN OFFERS IS PRESCRIBED IN 18 U.S.C. 1001.

Date: November 16, 19 88

elf asphalt

Name of Bidder

By:

Philip Ehrman

Title:

Vice President

Official Address: (including zip code)

P.O. Box 1295/2720 East Durbin Road

Warsaw, Indiana 46580

BID BOND

Approved by The American Institute of Architects,
A. I. A. Document A 310 Feb. 1970 Edition

KNOW ALL MEN BY THESE PRESENTS, that we ELF ASPHALT,
P.O. BOX 1295, WARSAW, INDIANA 46580

as Principal, hereinafter called the Principal,
and the ST. PAUL FIRE AND MARINE INSURANCE COMPANY, a corporation duly organized under the laws of the
State of Minnesota as Surety, hereinafter called the Surety, are held and firmly bound unto _____

CITY OF FORT WAYNE

as Obligee, hereinafter called the Obligee,
in the sum of FIVE PERCENT OF AMOUNT BID _____ Dollars

(\$ 5), for the payment of which sum well and truly to be made, the said Principal and the said Surety,
bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for _____

FURNISHING BITUMINOUS MATERIALS

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this 22ND day of NOVEMBER A. D. 19 88,

Jerry C. Oldswald
(Witness)

ELF ASPHALT
(Principal)
Ruth E. Hansen
(Title)

Amara L. Stockwell
(Witness)

St. Paul Fire and Marine Insurance Company
(Surety)
By Joseph R. Hillebrand
(Attorney-in-fact)
Joseph R. Hillebrand

For verification or the authenticity of this Power of Attorney, you may telephone toll free 800-328-2189 and ask for the Power of Attorney Clerk. Please refer to the Certificate of Authority No. and the named individual(s).

GENERAL POWER OF ATTORNEY - CERTIFIED COPY
(Original on File at Home Office of Company. See Certification.)

1211337

KNOW ALL MEN BY THESE PRESENTS: That St. Paul Fire and Marine Insurance Company, a corporation organized and existing under the laws of the State of Minnesota, having its principal office in the City of St. Paul, Minnesota, does hereby constitute and appoint:

William S. Heck, Gene Davis, Joseph M. Scepanski, Katherine Baroudos,
Fred Eickhoff, Joseph R. Hillebrand, individually,
Indianapolis, Indiana

its true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise,

UNLIMITED AS TO CHARACTER AND AMOUNT

and the execution of all such instrument(s) in pursuance of these presents, shall be as binding upon said St. Paul Fire and Marine Insurance Company, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal office.

This Power of Attorney is executed, and may be certified to and may be revoked, pursuant to and by authority of Article V, Section 6(C), of the By-Laws adopted by the Board of Directors of ST. PAUL FIRE AND MARINE INSURANCE COMPANY at a meeting called and held on the 23rd day of January, 1970, of which the following is a true transcript of said Section 6(C):

"The President or any Vice President, Assistant Vice President, Secretary or Resident Secretary shall have power and authority

- (1) To appoint Attorneys-in-fact, and to authorize them to execute on behalf of the Company, and attach the Seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and
- (2) To appoint special Attorneys-in-fact, who are hereby authorized to certify to copies of any power-of-attorney issued in pursuance of this section and/or any of the By-Laws of the Company, and
- (3) To remove, at any time, any such Attorney-in-fact or Special Attorney-in-fact and revoke the authority given him."

Further, this Power of Attorney is signed and sealed by facsimile pursuant to resolution of the Board of Directors of said Company adopted at a meeting duly called and held on the 6th day of May, 1959, of which the following is a true excerpt:

"Now therefore the signatures of such officers and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached."

IN TESTIMONY WHEREOF, St. Paul Fire and Marine Insurance Company has caused this instrument to be signed and its corporate seal to be affixed by its authorized officer, this 1st day of March, A.D. 1984.

ST. PAUL FIRE AND MARINE INSURANCE COMPANY



STATE OF MINNESOTA } ss.
County of Ramsey

Vice President

On this 1st day of February, 19 88, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said that he/she is the therein described and authorized officer of St. Paul Fire and Marine Insurance Company; that the seal affixed to said instrument is the Corporate Seal of Said Company; that the said Corporate Seal and his/her signature were duly affixed by order of the Board of Directors of said Company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal, at the city of St. Paul, Minnesota, the day and year first above written.



MARY C. CLANCY, Notary Public, Ramsey County, MN
My Commission Expires November 1, 1990

CERTIFICATION

I, the undersigned officer of St. Paul Fire and Marine Insurance Company, do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Section of the By-Laws of said Company as set forth in said Power of Attorney, with the ORIGINALS ON FILE IN THE HOME OFFICE OF SAID COMPANY, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.



IN TESTIMONY WHEREOF, I have hereunto set my hand this

22nd day of November, 19 88

Secretary

Only a certified copy of Power of Attorney bearing the Certificate of Authority No. printed in red on the upper right corner is binding. Photocopies, carbon copies or other reproductions of this document are invalid and not binding upon the Company.

ANY INSTRUMENT ISSUED IN EXCESS OF THE PENALTY AMOUNT STATED ABOVE IS TOTALLY VOID AND WITHOUT ANY VALIDITY.

Read the first time in full and on motion by Jelius,
seconded by Redd, and duly adopted, read the second time by
title and referred to the Committee on Other Works (and the
City Plan Commission for recommendation) and Public Hearing to be held after
due legal notice, at the Council Conference Room 128, City-County Building,
Fort Wayne, Indiana, on , the , day
of , 19 , at o'clock P.M., E.S.T.

DATED: 12-13-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Jelius,
seconded by Redd, and duly adopted, placed on its
passage. PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	<u>8</u>			<u>1</u>
<u>BRADBURY</u>	<u>✓</u>			
<u>BURNS</u>	<u>✓</u>			
<u>GiaQUINTA</u>	<u>✓</u>			
<u>HENRY</u>	<u>✓</u>			
<u>LONG</u>				<u>✓</u>
<u>REDD</u>	<u>✓</u>			
<u>SCHMIDT</u>	<u>✓</u>			
<u>STIER</u>	<u>✓</u>			
<u>TALARICO</u>	<u>✓</u>			

DATED: 12-27-88

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne,
Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL)
(SPECIAL) (ZONING MAP) ORDINANCE RESOLUTION NO. S-191-88
on the 27th day of December, 1988.

Sandra E. Kennedy ATTEST
SANDRA E. KENNEDY, CITY CLERK

SEAL
Thomas E. Kennedy
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on
the 28th day of December, 1988,
at the hour of 11:00 o'clock P.M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 5th day of January,
1989, at the hour of 2:50 o'clock P.M., E.S.T.

PAUL HELMKE
PAUL HELMKE, MAYOR

DIGEST SHEET

J-88-12-14

TITLE OF ORDINANCE: Special

DEPARTMENT REQUESTING ORDINANCE: Purchasing

SYNOPSIS OF ORDINANCE: An ordinance approving the award of Reference No. 1352 with respect to the purchase of bituminous materials for 1989 through the Street Department. The cost reflects the most responsible vendor.

EFFECT OF PASSAGE: These materials are needed by the department to make the necessary products for the resurfacing projects throughout the City of Fort Wayne for 1989.

EFFECT OF NON-PASSAGE: Without these materials the Street Department would not be able to continue with its annual resurfacing projects.

MONIES INVOLVED: Elf Asphalt \$200000.00+/-

SOURCE OF FUNDING: Street Department
Fund Line: 128-128-1201-4272

BILL NO. S-88-12-14

REPORT OF THE COMMITTEE ON PUBLIC WORKS

WE, YOUR COMMITTEE ON PUBLIC WORKS TO WHOM WAS
REFERRED AN (ORDINANCE) (XXXXXX) APPROVING THE AWARDING
OF REFERENCE #1352 BY THE CITY OF FORT WAYNE, INDIANA,
BY AND THROUGH ITS DEPARTMENT OF PURCHASING AND ELF
ASPHALT FOR THE STREET DEPARTMENT

HAVE HAD SAID (ORDINANCE) (XXXXXX) UNDER CONSIDERATION
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID
(ORDINANCE) (XXXXXX)

YES

NO

Samuel J. Talarico SAMUEL J. TALARICO
Chairman
Mark E. GiaQuinta MARK E. GIAQUINTA
Vice Chairman
David C. Long DAVID C. LONG

JAMES S. STIER JAMES S. STIER
JANET G. BRADBURY JANET G. BRADBURY
12-27-88

CONCURRED IN

Sandra E. Kennedy
Sandra E. Kennedy
City Clerk